



J. Kevin Stitt
Office of the Governor
State of Oklahoma

FILED

AUG 19 2022

OKLAHOMA SECRETARY
OF STATE

**EXECUTIVE DEPARTMENT
EXECUTIVE ORDER 2022-18**

Consistent with the State's Constitution and current federal law, it is time to protect Oklahoma's school district employees' First Amendment rights.

Article XXIII, § 1A(C) of the Oklahoma Constitution states that "[i]t shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization unless the employee has first authorized such deduction." In 2002, this constitutional provision was challenged in federal court. *Local 514, Transport Workers Union of America v. Keating*, 212 F.Supp.2d 1319 (E.D. Okla. 2002). In that case, the District Court found that, with respect to *private* sector employees, the regulation of payroll check-off in connection with union dues was preempted by the Labor Management Relations Act. *Id.* at 1324. However, no such preemption exists with respect to *public* sector employees. Accordingly, Oklahoma's constitutional authorization requirement remains binding on public sector employees in the State of Oklahoma.

The United States Supreme Court confirmed the legitimacy of states' right-to-work laws, like Oklahoma's authorization requirement, in *Janus v. AFSCME*, 138 S. Ct. 2448 (2018). In *Janus*, the Supreme Court addressed a union's right to collect payments from public sector employees, holding that although public employees may authorize dues deductions, *they must first know and waive their First Amendment rights*. *Id.* at 2486 (emphasis added). The basis for this holding is that a waiver of an employee's First Amendment rights "cannot be presumed" and, in order to be effective, "must be freely given and shown by 'clear and compelling' evidence." *Id.* (citations omitted).

In view of the foregoing, I, J. Kevin Stitt, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby urge the Oklahoma State Board of Education (SBOE), which has "supervision of the public school system of Oklahoma," 70 O.S. § 3-104, to take action to the fullest extent permitted by applicable law to ensure that employee organization payroll deductions meet the requirements of state and federal law and that school district employees are fully informed of their First Amendment rights—including their right to refuse to pay employee organization dues as well as their right not to associate with the employee organization. I further urge the SBOE to make certain that the requirements of state and federal law regarding school district employees' First Amendment rights are satisfied annually.

This Order takes effect immediately and remains in effect until it is modified or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, on this 19th day of August, 2022.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA



J. KEVIN STITT

ATTEST:



Brian Bingman, SECRETARY OF STATE